

HOUSE BILL No. 1552

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-2; IC 3-6-9; IC 3-8; IC 3-9; IC 3-10-8; IC 3-11; IC 3-12; IC 3-13-7-2.5; IC 36-12.

Synopsis: Elected library boards. Establishes a procedure to provide for the election of the board members of a Class 1 library.

Effective: July 1, 2009.

Leonard, Welch

January 16, 2009, read first time and referred to Committee on Elections and Apportionment.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1552

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-2-2.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. "Auxiliary party
3 organization" means an organization located within or outside Indiana
4 that:

5 (1) is affiliated with a political party;

6 (2) proposes to influence:

7 (A) the election of a candidate for state, legislative, local,
8 **library board**, or school board office; or

9 (B) the outcome of a public question; and

10 (3) has not:

11 (A) had an annual budget of five thousand dollars (\$5,000) or
12 more in at least one (1) of the last two (2) years; or

13 (B) made a contribution of more than one thousand dollars
14 (\$1,000) to another committee or to a candidate.

15 SECTION 2. IC 3-5-2-17 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2009]: Sec. 17. "Elected office" means a federal
17 office, state office, legislative office, school board office, **library**

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board office, or local office. Political party offices (such as precinct committeeman and state convention delegate) are not considered to be elected offices.

SECTION 3. IC 3-5-2-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 28.5. "Library board" has the meaning set forth in IC 36-12-1-3.**

SECTION 4. IC 3-5-2-28.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 28.7. "Library board office" refers to an elected position on a library board.**

SECTION 5. IC 3-5-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 29. (a)** "Local office" means a circuit office, county office, city office, town office, township office, or other civil office for which the electorate of a political subdivision votes.

(b) The term includes all elected offices other than federal, state, legislative, **library board**, and school board offices.

SECTION 6. IC 3-5-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 37. (a)** Except as provided in subsection (b), "political action committee" means an organization located within or outside Indiana that satisfies all of the following:

- (1) The organization proposes to influence:
 - (A) the election of a candidate for state, legislative, local, **library board**, or school board office; or
 - (B) the outcome of a public question.
- (2) The organization accepts contributions or makes expenditures during a calendar year:
 - (A) to influence the election of a candidate for state, legislative, local, **library board**, or school board office or the outcome of a public question that will appear on the ballot in Indiana; and
 - (B) that in the aggregate exceed one hundred dollars (\$100).
- (3) The organization is not any of the following:
 - (A) An auxiliary party organization.
 - (B) A legislative caucus committee.
 - (C) A regular party committee.
 - (D) A candidate's committee.

(b) A corporation or labor organization that makes a contribution in accordance with IC 3-9-2 or makes an expenditure is not considered a political action committee.

SECTION 7. IC 3-6-9-1 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If:

(1) twenty-six percent (26%) or more of all candidates of a political party who are candidates for:

(A) nomination to elected offices at a county primary election (or municipal primary election within the municipality in which the municipal primary is to be conducted), not including candidates for delegates to the state convention or candidates for precinct committeemen; or

(B) precinct committeemen at an election for precinct committeemen, whose names are certified to the county election board as candidates to be voted for at the primary election for precinct committeemen; or

(2) any candidate or group of candidates for a **library board or school board office**;

desire to have watchers at the polls in any precinct of the county or municipality, they shall sign a written statement indicating their desire to name watchers.

(b) If the candidates signing the statement are candidates for nomination at a county primary election or for election as precinct committeemen or to a **library board or school board office**, the written statement shall be filed with the circuit court clerk of the county where the candidates reside.

(c) If the candidates signing the statement are candidates for nomination at a municipal primary election, the written statement shall be filed with the circuit court clerk of the county that contains the greatest percentage of the population of the election district.

SECTION 8. IC 3-6-9-5, AS AMENDED BY P.L.230-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. When the attorney-in-fact has certified the names of the watchers in writing under section 4 of this chapter to the circuit court clerk, the clerk shall immediately issue certificates to the persons named. The certificates entitle the watchers to go to the precincts designated in the statement. Each watcher's credentials must state the following:

(1) The name of the attorney-in-fact who certified the watcher to the clerk.

(2) The status of the individual as a watcher appointed under this chapter.

(3) The name of the individual serving as a watcher.

(4) If the watcher is acting on behalf of a **library board or school board candidate**, or a group of political party candidates, the name of the **library board or school board candidate or political party**

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whose candidates have petitioned for watchers under this chapter.

SECTION 9. IC 3-6-9-13, AS AMENDED BY P.L.221-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. A watcher appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(1) of this chapter; or

(B) the names of all candidates at a **library board** or school board election and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(2) of this chapter.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

(9) Call upon the election sheriffs to make arrests.

SECTION 10. IC 3-8-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This section does not apply to a candidate for any of the following offices:

(1) Judge of a city court.

(2) Judge of a town court.

(b) A person is not qualified to run for:

(1) a state office;

(2) a legislative office;

(3) a local office; or

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1 **(4) a library board office; or**

2 ~~(4) (5)~~ **a school board office;**

3 unless the person is registered to vote in the election district the person
4 seeks to represent not later than the deadline for filing the declaration
5 or petition of candidacy or certificate of nomination.

6 (c) If a candidate filing error is made by the election division or a
7 circuit court clerk, the error does not invalidate the filing.

8 SECTION 11. IC 3-8-1-35 IS ADDED TO THE INDIANA CODE
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2009]: **Sec. 35. A candidate for a library board office must meet**
11 **the qualifications stated in IC 36-12-2.5.**

12 SECTION 12. IC 3-8-2-2.4 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2009]: **Sec. 2.4. (a) A candidate for a library board office must**
15 **file a petition of nomination in accordance with IC 3-8-6 and as**
16 **required under IC 36-12-2.5. The petition of nomination, once**
17 **filed, serves as the candidate's declaration of candidacy for a**
18 **library board office.**

19 **(b) A candidate for a library board office is not required to file**
20 **a statement of organization for the candidate's principal committee**
21 **by noon seven (7) days after the final date for filing a petition of**
22 **nomination or declaration of intent to be a write-in candidate**
23 **unless the candidate has received contributions or made**
24 **expenditures requiring the filing of a statement under IC 3-9-1-5.5.**

25 SECTION 13. IC 3-8-2-2.5 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) A person who**
27 **desires to be a write-in candidate for a:**

28 **(1) federal, state, legislative, library board, or local office or**
29 ~~**school board office**~~ **in a general or municipal election; or**

30 **(2) school board office in a school board election;**

31 must file a declaration of intent to be a write-in candidate with the
32 officer with whom declaration of candidacy must be filed under
33 sections 5 and 6 of this chapter.

34 (b) The declaration of intent to be a write-in candidate required
35 under subsection (a) must be signed before a person authorized to
36 administer oaths and must certify the following information:

37 (1) The candidate's name must be printed or typewritten as:

38 (A) the candidate wants the candidate's name to be certified;
39 and

40 (B) the candidate's name is permitted to appear under IC 3-5-7.

41 (2) A statement that the candidate is a registered voter and the
42 location of the candidate's precinct and township (or ward and

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city or town), county, and state.

(3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.

(4) The candidate's party affiliation or a statement that the candidate is an independent candidate (not affiliated with any party). For purposes of this subdivision, a candidate is affiliated with a political party only if the candidate satisfies section 7(a)(4) of this chapter.

(5) A statement of the candidate's intention to be a write-in candidate, the name of the office, including the district, and the date and type of election.

(6) If the candidate is a candidate for the office of President or Vice President of the United States, a statement declaring the names of the individuals who have consented and are eligible to be the candidate's candidates for presidential electors.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has:

(A) been a candidate for state or local office in a previous primary or general election; and

(B) filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of intent to be a write-in candidate under section 4 of this chapter.

(10) If the candidate is subject to IC 3-9-1-5.5, a statement that the candidate is required to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions.

(B) The candidate makes more than five hundred dollars

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1 (\$500) in expenditures.

2 (11) A statement that the candidate complies with all
3 requirements under the laws of Indiana to be a candidate for the
4 above named office, including any applicable residency
5 requirements, and that the candidate is not ineligible to be a
6 candidate due to a criminal conviction that would prohibit the
7 candidate from serving in the office.

8 (12) The candidate's signature and telephone number.

9 (c) At the time of filing the declaration of intent to be a write-in
10 candidate, the write-in candidate is considered a candidate for all
11 purposes.

12 (d) A write-in candidate must comply with the requirements under
13 IC 3-8-1 that apply to the office to which the write-in candidate seeks
14 election.

15 (e) A person may not be a write-in candidate in a contest for
16 nomination or for election to a political party office.

17 (f) A write-in candidate for the office of President or Vice President
18 of the United States must list at least one (1) candidate for presidential
19 elector and may not list more than the total number of presidential
20 electors to be chosen in Indiana.

21 (g) The commission shall provide that the form of a declaration of
22 intent to be a write-in candidate includes the following information
23 near the separate signature required by subsection (b)(7):

24 (1) The dates for filing campaign finance reports under IC 3-9.

25 (2) The penalties for late filing of campaign finance reports under
26 IC 3-9.

27 (h) A declaration of intent to be a write-in candidate must include
28 a statement that the candidate requests the name on the candidate's
29 voter registration record be the same as the name the candidate uses on
30 the declaration of intent to be a write-in candidate. If there is a
31 difference between the name on the candidate's declaration of intent to
32 be a write-in candidate and the name on the candidate's voter
33 registration record, the officer with whom the declaration of intent to
34 be a write-in candidate is filed shall forward the information to the
35 voter registration officer of the appropriate county as required by
36 IC 3-5-7-6(e). The voter registration officer of the appropriate county
37 shall change the name on the candidate's voter registration record to be
38 the same as the name on the candidate's declaration of intent to be a
39 write-in candidate.

40 SECTION 14. IC 3-8-6-11 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) Whenever a
42 town is wholly or partly located in a county having a consolidated city,

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a petition of nomination must be filed with the circuit court clerk of the county having the consolidated city.

(b) Whenever a town not described in subsection (a) has entered into an agreement with a county under IC 3-10-7-4, the petition must be filed with the circuit court clerk or board of registration of that county.

(c) Whenever a **library district or** school corporation is located in more than one (1) county, a petition for the nomination of a candidate to a **library board office or a** school board office must be filed with the circuit court clerk or board of registration of the county having the greatest percentage of population of the election district.

(d) When a petition is filed under subsection (a), (b), or (c) for nomination to an office whose election district is in more than one (1) county, the circuit court clerk or board of registration shall examine the voter registration records of each county in the election district to determine if each petitioner is eligible to vote for the candidates being nominated by the petition.

SECTION 15. IC 3-8-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) A person may not be selected as a candidate by petition of nomination without giving written consent and having it filed with the public official with whom certificates and petitions of nomination are required to be filed.

(b) Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated, including the filing of statements of economic interest.

(c) All questions concerning the validity of a petition of nomination filed with the secretary of state or contesting the denial of certification under section 12(d) of this chapter shall be referred to and determined by the commission. A statement questioning the validity of a petition of nomination or contesting the denial of certification under section 12(d) of this chapter must be filed with the election division under IC 3-8-1-2(c) or IC 3-8-1-2(e) not later than noon seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(d) All questions concerning the validity of a petition of nomination filed with a circuit court clerk or contesting the denial of certification under section 12(d) of this chapter shall be referred to and determined by the county election board. A statement questioning the validity of a petition of nomination or contesting the denial of certification under section 12(d) of this chapter must be filed with the county election board under IC 3-8-1-2(c) or IC 3-8-1-2(e) not later than noon

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seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(e) This subsection does not apply to a petition of nomination for election to a school board office subject to IC 3-8-2-14. The commission or a county election board shall rule on the validity of the petition of nomination or the denial of certification under section 12(d) of this chapter not later than noon sixty (60) days before the date on which the general or municipal election will be held for the office.

(f) This subsection applies to a petition of nomination for election to:

(1) **a library board office; or**

(2) a school board office elected in a general election.

All questions concerning the validity of the petition of nomination shall be referred to and determined by the county election board not later than noon fifty-four (54) days before the date of the general election. A statement questioning the validity of a petition of nomination must be filed with the county election board under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the general election.

SECTION 16. IC 3-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.
- (4) Legislative caucus committees.

(b) This chapter does not apply to the following:

- (1) A candidate for a local office for which the compensation is less than five thousand dollars (\$5,000) per year unless the candidate is required to file a written instrument designating a principal committee under section 5.5 of this chapter.
- (2) A candidate for **a library board office or a** school board office unless the candidate is required to file a written instrument designating a principal committee under section 5.5 of this chapter.
- (3) Elections for precinct committeeman or delegate to a state convention.
- (4) An auxiliary party organization.

SECTION 17. IC 3-9-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) This section does not apply to the following candidates:

- (1) A candidate for a local office for which the compensation is

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less than five thousand dollars (\$5,000) per year.

(2) A candidate for a **library board or** school board office.

(b) Each candidate shall have a principal committee.

(c) A candidate shall file a written instrument designating the name of the principal committee and the names of the chairman and treasurer of the committee. The written instrument must be filed not later than the earliest of the following:

(1) Noon ten (10) days after becoming a candidate.

(2) Noon seven (7) days after the final date and hour for filing any of the following, whichever applies to the candidate:

(A) A declaration of candidacy under IC 3-8-2.

(B) A petition of nomination under IC 3-8-6.

(C) A certificate of nomination under IC 3-8-7-8.

(D) A certificate of candidate selection under IC 3-13-1 or IC 3-13-2.

(E) A declaration of intent to be a write-in candidate under IC 3-8-2.

(3) The date a candidate is required to file the candidate's first campaign finance report under IC 3-9-5.

(d) This designation may be made on the same instrument as the statement of organization required from the principal committee.

SECTION 18. IC 3-9-1-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5.5. (a) This section applies to the following candidates:

(1) A candidate for a local office for which the compensation is less than five thousand dollars (\$5,000) per year.

(2) A candidate for a **library board or** school board office.

(b) A candidate shall have a principal committee.

(c) Not later than noon ten (10) days after either:

(1) the candidate receives more than five hundred dollars (\$500) in contributions; or

(2) the candidate makes more than five hundred dollars (\$500) in expenditures;

whichever occurs first, the candidate shall file a written instrument designating the name of the principal committee and the names of the chairman and treasurer of the committee.

(d) This designation may be made on the same instrument as the statement of organization required from the principal committee.

SECTION 19. IC 3-9-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) A committee may disband at any time in the manner prescribed by this section.

(b) The commission or a county election board may administratively

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1 disband a committee in the manner prescribed by this section.

2 (c) The commission has exclusive jurisdiction to disband any of the
3 following:

- 4 (1) A candidate's committee for state office.
5 (2) A candidate's committee for legislative office.
6 (3) A legislative caucus committee.
7 (4) A political action committee that has filed a statement or
8 report with the election division.
9 (5) A regular party committee that has filed a statement or report
10 with the election division.

11 (d) A county election board has exclusive jurisdiction to disband
12 any of the following:

- 13 (1) A candidate's committee for a local office.
14 (2) A candidate's committee for a **library board or** school board
15 office.
16 (3) A political action committee that has filed a statement or
17 report with the election board, unless the political action
18 committee has also filed a report with the election division.
19 (4) A regular party committee that has filed a statement or report
20 with the election board, unless the regular party committee has
21 also filed a report with the election division.

22 (e) The commission or a county election board may administratively
23 disband a committee in the following manner:

- 24 (1) Not later than the last Friday of January of each year, the
25 election division or county election board shall review the list of
26 committees that have filed statements of organization with the
27 division or board under this article.
28 (2) If the election division or county election board determines
29 both of the following, the election division or county election
30 board may begin a proceeding before the commission or board to
31 administratively disband the committee:
32 (A) The committee has not filed any report of expenditures
33 during the previous three (3) calendar years.
34 (B) The committee last reported cash on hand in an amount
35 that does not exceed one thousand dollars (\$1,000), if the
36 committee filed a report under this article.
37 (3) The election division or county election board shall provide
38 notice of the proceeding by certified mail to the last known
39 address of the chairman and treasurer of the committee.
40 (4) The commission or board may issue an order administratively
41 dissolving the committee and waiving any outstanding civil
42 penalty previously imposed by the commission or board, if the

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commission or board makes the following findings:

(A) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise function as a committee.

(B) The prudent use of public resources makes further efforts to collect any outstanding civil penalty imposed against the committee wasteful or unjust.

(C) According to the best evidence available to the commission or board, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

(5) The election division shall arrange for the publication in the Indiana Register of an order administratively disbanding a committee. A county election board shall publish a notice under IC 5-3-1 stating that the board has disbanded a committee under this subsection. The notice must state the date of the order and the name of the committee, but the board is not required to publish the text of the order.

(6) An order issued under this subsection takes effect immediately upon its adoption, unless otherwise specified in the order.

(f) If the chairman or treasurer of a committee wishes to disband the committee, the committee must do either of the following:

(1) Give written notification of the dissolution and transfer a surplus of contributions less expenditures to any one (1) or a combination of the following:

(A) One (1) or more regular party committees.

(B) One (1) or more candidate's committees.

(C) The election division.

(D) An organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

(E) Contributors to the committee, on a pro rata basis.

(2) Use the surplus in any other manner permitted under IC 3-9-3-4.

(g) Except as provided in subsection (e) concerning the waiver of civil penalties, a dissolution or transfer of funds does not relieve the committee or the committee's members from civil or criminal liability.

SECTION 20. IC 3-9-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. During a year a corporation or labor organization may not make total contributions in excess of:

(1) an aggregate of five thousand dollars (\$5,000) apportioned in any manner among all candidates for state offices (including a judge of the court of appeals whose retention in office is voted on

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- by a district that does not include all of Indiana);
- (2) an aggregate of five thousand dollars (\$5,000) apportioned in any manner among all state committees of political parties;
- (3) an aggregate of two thousand dollars (\$2,000) apportioned in any manner among all candidates for the senate of the general assembly;
- (4) an aggregate of two thousand dollars (\$2,000) apportioned in any manner among all candidates for the house of representatives of the general assembly;
- (5) an aggregate of two thousand dollars (\$2,000) apportioned in any manner among regular party committees organized by a legislative caucus of the senate of the general assembly;
- (6) an aggregate of two thousand dollars (\$2,000) apportioned in any manner among regular party committees organized by a legislative caucus of the house of representatives of the general assembly;
- (7) an aggregate of two thousand dollars (\$2,000) apportioned in any manner among all candidates for **library board offices**, school board offices, and local offices; and
- (8) an aggregate of two thousand dollars (\$2,000) apportioned in any manner among all central committees other than state committees.

SECTION 21. IC 3-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.
- (4) A legislative caucus committee.

(b) This chapter does not apply to the following:

- (1) A candidate for a local office for which the compensation is less than five thousand dollars (\$5,000) per year unless the candidate is required to file a written instrument designating a principal committee under IC 3-9-1-5.5.
- (2) Elections for precinct committeeman or delegate to a state convention.
- (3) A candidate for a **library board or** school board office unless the candidate is required to file a written instrument designating a principal committee under IC 3-9-1-5.5.
- (4) An auxiliary party organization.

SECTION 22. IC 3-9-5-1 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.
- (4) A legislative caucus committee.

(b) This chapter does not apply to the following:

- (1) A candidate for a local office for which the compensation is less than five thousand dollars (\$5,000) per year unless the candidate is required to file a written instrument designating a principal committee under IC 3-9-1-5.5.
- (2) A candidate for a **library board** or school board office unless the candidate is required to file a written instrument designating a principal committee under IC 3-9-1-5.5.
- (3) Elections for precinct committeeman or delegate to a state convention.
- (4) An auxiliary party organization.

SECTION 23. IC 3-10-8-1, AS AMENDED BY P.L.164-2006, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A special election shall be held in the following cases:

- (1) Whenever two (2) or more candidates for a federal, state, legislative, circuit, **library board**, or school board office receive the highest and an equal number of votes for the office, except as provided in:

- (A) Article 5, Section 5 of the Constitution of the State of Indiana; ~~or in~~
- (B) IC 20; **or**
- (C) **IC 3-12-9.**

- (2) Whenever a vacancy occurs in the office of United States Senator, as provided in IC 3-13-3-1.
- (3) Whenever a vacancy occurs in the office of United States Representative unless the vacancy occurs less than thirty (30) days before a general election.
- (4) Whenever a vacancy occurs in any local office the filling of which is not otherwise provided by law.
- (5) Whenever required by law for a public question.
- (6) Whenever ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18.
- (7) Whenever required under IC 3-13-5 to fill a vacancy in a legislative office unless the vacancy occurs less than thirty (30)

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days before a general election.

SECTION 24. IC 3-10-8-6, AS AMENDED BY P.L.230-2005, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

(1) under a court order under IC 3-12-8; or

(2) for a local public question;

the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

(1) under a court order under IC 3-12-8 for a **library board or school board office**; or

(2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. If the board has adopted a resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board. A resolution adopted under this subsection may not be rescinded by the county election board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

(1) The inspector shall be nominated by the county chairman entitled to nominate an inspector under IC 3-6-6-8.

(2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.

(3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

(4) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct

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1 separate from ballots cast in any other precinct, so that the votes
2 cast for each candidate and on each public question in each of the
3 precincts administered by the board may be determined.

4 SECTION 25. IC 3-11-2-12.9, AS AMENDED BY P.L.58-2005,
5 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2009]: Sec. 12.9. (a) School board offices to be elected at the
7 general election shall be placed on the general election ballot after the
8 offices described in section 12 of this chapter.

9 (b) School board offices shall be placed in a separate column on the
10 ballot.

11 (c) If the ballot contains a candidate for a school board office, the
12 ballot must also contain a statement that reads substantially as follows:
13 "To vote for a candidate for this office, make a voting mark on or in the
14 square to the left of the candidate's name."

15 **(d) Library board offices shall be placed on the general election**
16 **ballot after any school board offices on the ballot under subsection**
17 **(a).**

18 **(e) Library board offices shall be placed in a separate column on**
19 **the ballot.**

20 **(f) If the ballot contains a candidate for a library board office,**
21 **the ballot must also contain a statement that reads substantially as**
22 **follows: "To vote for a candidate for this office, make a voting**
23 **mark on or in the square to the left of the candidate's name."**

24 SECTION 26. IC 3-11-13-11, AS AMENDED BY P.L.164-2006,
25 SECTION 114, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The ballot information,
27 whether placed on the ballot card or on the marking device, must be in
28 the order of arrangement provided for ballots under this section.

29 (b) Each county election board shall have the names of all
30 candidates for all elected offices, political party offices, and public
31 questions printed on a ballot card as provided in this chapter. The
32 county may:

- 33 (1) print all offices and questions on a single ballot card; and
- 34 (2) include a ballot variation code to ensure that the proper
35 version of a ballot is used within a precinct.

36 (c) Each type of ballot card must be of uniform size and of the same
37 quality and color of paper (except as permitted under IC 3-10-1-17).

38 (d) The nominees of a political party or an independent candidate
39 or independent ticket (described in IC 3-11-2-6) nominated by
40 petitioners shall be listed on the ballot with the name and device set
41 forth on the certification or petition. The circle containing the device
42 may be of any size that permits a voter to readily identify the device.

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IC 3-11-2-5 applies if the certification or petition does not include a name or device, or if the same device is selected by two (2) or more parties or petitioners.

(e) The offices on the general election ballot must be placed on the ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), ~~IC 3-11-2-12.9(a)~~, **IC 3-11-2-12.9**, IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). The offices and public questions may be listed in a continuous column either vertically or horizontally and on a number of separate pages. However, **library board and school board offices**, public questions concerning the retention of a justice or judge, local nonpartisan judicial offices, and local public questions must be placed at the beginning of separate columns.

(f) The name of each office must be printed in a uniform size in bold type. A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office.".

(g) Below the name of the office and the statement required by subsection (f), the names of the candidates for each office must be grouped together in the following order:

(1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election is listed first.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state is listed second.

(3) All other political parties listed in the order that the parties' candidates for secretary of state finished in the last election are listed after the party listed in subdivision (2).

(4) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate or independent ticket (described in IC 3-11-2-6), the party or candidate is listed after the parties described in subdivisions (1), (2), and (3).

(5) If more than one (1) political party or independent candidate or ticket described in subdivision (4) qualifies to be on the ballot, the parties, candidates, or tickets are listed in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(6) A space for write-in voting is placed after the candidates listed in subdivisions (1) through (5), if required by law.

(7) The name of a write-in candidate may not be listed on the

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- 1 ballot.
- 2 (h) The names of the candidates grouped in the order established by
- 3 subsection (g) must be printed in type with uniform capital letters and
- 4 have a uniform space between each name. The name of the candidate's
- 5 political party, or the word "Independent" if the:
- 6 (1) candidate; or
- 7 (2) ticket of candidates for:
- 8 (A) President and Vice President of the United States; or
- 9 (B) governor and lieutenant governor;
- 10 is independent, must be placed immediately below or beside the name
- 11 of the candidate and must be printed in a uniform size and type.
- 12 (i) All the candidates of the same political party for election to
- 13 at-large seats on the fiscal or legislative body of a political subdivision
- 14 must be grouped together:
- 15 (1) under the name of the office that the candidates are seeking;
- 16 (2) in the order established by subsection (g); and
- 17 (3) within the political party, in alphabetical order according to
- 18 surname.
- 19 A statement reading substantially as follows must be placed
- 20 immediately below the name of the office and above the name of the
- 21 first candidate: "Vote for not more than (insert the number of
- 22 candidates to be elected) candidate(s) of ANY party for this office.".
- 23 (j) Candidates for election to at-large seats on **a library board or**
- 24 the governing body of a school corporation must be grouped:
- 25 (1) under the name of the office that the candidates are seeking;
- 26 and
- 27 (2) in alphabetical order according to surname.
- 28 A statement reading substantially as follows must be placed
- 29 immediately below the name of the office and above the name of the
- 30 first candidate: "Vote for not more than (insert the number of
- 31 candidates to be elected) candidate(s) for this office.".
- 32 (k) The following information must be placed at the top of the ballot
- 33 before the first office is listed:
- 34 (1) The cautionary statement described in IC 3-11-2-7.
- 35 (2) The instructions described in IC 3-11-2-8, IC 3-11-2-10(c),
- 36 and IC 3-11-2-10(d).
- 37 (l) The ballot must include a single connectable arrow, circle, oval,
- 38 or square, or a voting position for voting a straight party or an
- 39 independent ticket (described in IC 3-11-2-6) by one (1) mark as
- 40 required by section 14 of this chapter, and the single connectable
- 41 arrow, circle, oval, or square, or the voting position for casting a
- 42 straight party or an independent ticket ballot must be identified by:

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(1) the name of the political party or independent ticket (described in IC 3-11-2-6); and

(2) immediately below or beside the political party's or independent ticket's name, the device of that party or ticket (described in IC 3-11-2-5).

The name and device of each political party or independent ticket must be of uniform size and type and arranged in the order established by subsection (g) for listing candidates under each office. The instructions described in IC 3-11-2-10(b) for voting a straight party ticket and the statement concerning presidential electors required under IC 3-10-4-3 may be placed on the ballot beside or above the names and devices within the voting booth in a location that permits the voter to easily read the instructions.

(m) A public question must be in the form described in IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a single connectable arrow, a circle, or an oval may be used instead of a square. Except as expressly authorized or required by statute, a county election board may not print a ballot card that contains language concerning the public question other than the language authorized by a statute.

(n) The requirements in this section:

(1) do not replace; and

(2) are in addition to;

any other requirements in this title that apply to optical scan ballots.

(o) The procedure described in IC 3-11-2-16 must be used when a ballot does not comply with the requirements imposed by this title or contains another error or omission that might result in confusion or mistakes by voters.

(p) This subsection applies to an optical scan ballot that does not list:

(1) the names of political parties or candidates; or

(2) the text of public questions;

on the face of the ballot. The ballot must be prepared in accordance with this section, except that the ballot must include a numbered circle or oval to refer to each political party, candidate, or public question.

SECTION 27. IC 3-11-14-3.5, AS ADDED BY P.L.58-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.5. (a) Each county election board shall have the names of all candidates for all elected offices, political party offices, and public questions printed on ballot labels for use in an electronic voting system as provided in this chapter.

(b) The county may:

(1) print all offices and public questions on a single ballot label;

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and

(2) include a ballot variation code to ensure that the proper version of a ballot label is used within a precinct.

(c) Each type of ballot label or paster must be of uniform size and of the same quality and color of paper (except as permitted under IC 3-10-1-17).

(d) The nominees of a political party or an independent candidate or independent ticket (described in IC 3-11-2-6) nominated by petitioners must be listed on the ballot label with the name and device set forth on the certification or petition. The circle containing the device may be of any size that permits a voter to readily identify the device. IC 3-11-2-5 applies if the certification or petition does not include a name or device, or if the same device is selected by two (2) or more parties or petitioners.

(e) The ballot labels must list the offices on the general election ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2, IC 3-11-2-12.5, IC 3-11-2-12.7(b), ~~IC 3-11-2-12.9(a)~~, **IC 3-11-2-12.9**, IC 3-11-2-13(a) through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). Each office and public question may have a separate screen, or the offices and public questions may be listed in a continuous column either vertically or horizontally. However, **library board and school board** offices, public questions concerning the retention of a justice or judge, local nonpartisan judicial offices, and local public questions shall be placed at the beginning of separate columns or pages.

(f) The name of each office must be printed in a uniform size in bold type. A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office."

(g) Below the name of the office and the statement required by subsection (f), the names of the candidates for each office must be grouped together in the following order:

(1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election is listed first.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state is listed second.

(3) All other political parties listed in the order that the parties' candidates for secretary of state finished in the last election are listed after the party listed in subdivision (2).

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(4) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate or independent ticket (described in IC 3-11-2-6), the party or candidate is listed after the parties described in subdivisions (1), (2), and (3).

(5) If more than one (1) political party or independent candidate or ticket described in subdivision (4) qualifies to be on the ballot, the parties, candidates, or tickets are listed in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(6) A space for write-in voting is placed after the candidates listed in subdivisions (1) through (5), if required by law.

(7) The name of a write-in candidate may not be listed on the ballot.

(h) The names of the candidates grouped in the order established by subsection (g) must be printed in type with uniform capital letters and have a uniform space between each name. The name of the candidate's political party, or the word "Independent", if the:

(1) candidate; or

(2) ticket of candidates for:

(A) President and Vice President of the United States; or

(B) governor and lieutenant governor;

is independent, must be placed immediately below or beside the name of the candidate and must be printed in uniform size and type.

(i) All the candidates of the same political party for election to at-large seats on the fiscal or legislative body of a political subdivision must be grouped together:

(1) under the name of the office that the candidates are seeking;

(2) in the party order established by subsection (g); and

(3) within the political party, in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) of ANY party for this office."

(j) Candidates for election to at-large seats on **a library board or** the governing body of a school corporation must be grouped:

(1) under the name of the office that the candidates are seeking; and

(2) in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of

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1 candidates to be elected) candidate(s) for this office.".

2 (k) The cautionary statement described in IC 3-11-2-7 must be
3 placed at the top or beginning of the ballot label before the first office
4 is listed.

5 (l) The instructions described in IC 3-11-2-8, IC 3-11-2-10(c), and
6 IC 3-11-2-10(d) may be:

7 (1) placed on the ballot label; or

8 (2) posted in a location within the voting booth that permits the
9 voter to easily read the instructions.

10 (m) The ballot label must include a touch sensitive point or button
11 for voting a straight political party or independent ticket (described in
12 IC 3-11-2-6) by one (1) touch, and the touch sensitive point or button
13 must be identified by:

14 (1) the name of the political party or independent ticket; and

15 (2) immediately below or beside the political party's or
16 independent ticket's name, the device of that party or ticket
17 (described in IC 3-11-2-5).

18 The name and device of each party or ticket must be of uniform size
19 and type, and arranged in the order established by subsection (g) for
20 listing candidates under each office. The instructions described in
21 IC 3-11-2-10(b) for voting a straight party ticket and the statement
22 concerning presidential electors required under IC 3-10-4-3 may be
23 placed on the ballot label or in a location within the voting booth that
24 permits the voter to easily read the instructions.

25 (n) A public question must be in the form described in
26 IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a touch sensitive
27 point or button must be used instead of a square. Except as expressly
28 authorized or required by statute, a county election board may not print
29 a ballot label that contains language concerning the public question
30 other than the language authorized by a statute.

31 (o) The requirements in this section:

32 (1) do not replace; and

33 (2) are in addition to;

34 any other requirements in this title that apply to ballots for electronic
35 voting systems.

36 (p) The procedure described in IC 3-11-2-16 must be used when a
37 ballot label does not comply with the requirements imposed by this title
38 or contains another error or omission that might result in confusion or
39 mistakes by voters.

40 SECTION 28. IC 3-12-1-7, AS AMENDED BY P.L.164-2006,
41 SECTION 124, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) This subsection applies

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whenever a voter:

- (1) votes a straight party ticket; and
- (2) votes only for one (1) or more individual candidates who are all of the same political party as the straight ticket vote.

The straight ticket vote shall be counted and the individual candidate votes may not be counted.

(b) This subsection applies whenever:

- (1) a voter has voted a straight party ticket for the candidates of one (1) political party;
- (2) only one (1) person may be elected to an office; and
- (3) the voter has voted for one (1) individual candidate for the office described in subdivision (2) who is:

- (A) a candidate of a political party other than the party for which the voter voted a straight ticket; or
- (B) an independent candidate for the office.

If the voter has voted for one (1) individual candidate for the office described in subdivision (2), the individual candidate vote for that office shall be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted.

(c) This subsection applies whenever:

- (1) a voter has voted a straight party ticket for the candidates of one (1) political party; and
- (2) the voter has voted for more individual candidates for the office than the number of persons to be elected to that office.

The individual candidate votes for that office may not be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted.

(d) This subsection applies whenever:

- (1) a voter has voted a straight party ticket for the candidates of one (1) political party;
- (2) more than one (1) person may be elected to an office; and
- (3) the voter has voted for individual candidates for the office described in subdivision (2) who are:
 - (A) independent candidates;
 - (B) candidates of a political party other than the political party for which the voter cast a straight party ticket under subdivision (1); or
 - (C) a combination of candidates described in clauses (A) and (B).

The individual votes cast by the voter for the office for the independent

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1 candidates and the candidates of a political party other than the
 2 political party for which the voter cast a straight party ticket shall be
 3 counted. The straight party ticket vote cast by that voter for that office
 4 shall be counted unless the total number of votes cast for the office by
 5 the voter, when adding the voter's votes for the individual candidates
 6 for the office and the voter's straight party ticket votes for the office, is
 7 greater than the number of persons to be elected to the office. If the
 8 total number of votes cast for the office is greater than the number of
 9 persons to be elected to the office, the straight party ticket votes for the
 10 office may not be counted. The straight party ticket votes for other
 11 offices on the voter's ballot shall be counted.

12 (e) This subsection applies whenever:

13 (1) a voter has voted a straight party ticket for the candidates of
 14 one (1) political party;

15 (2) more than one (1) person may be elected to an office; and

16 (3) the voter has voted for individual candidates for the office
 17 described in subdivision (2) who are:

18 (A) independent candidates or candidates of a political party
 19 other than the political party for which the voter cast a straight
 20 party ticket under subdivision (1); and

21 (B) candidates of the same political party for which the voter
 22 cast a straight party ticket under subdivision (1).

23 The individual votes cast by the voter for the office for the independent
 24 candidates and the candidates of a political party other than the
 25 political party for which the voter cast a straight party ticket shall be
 26 counted. The individual votes cast by the voter for the office for the
 27 candidates of the same political party for which the voter cast a straight
 28 party ticket may not be counted. The straight party ticket vote cast by
 29 that voter for that office shall be counted unless the total number of
 30 votes cast for the office by the voter, when adding the voter's votes for
 31 the individual candidates for the office and the voter's straight party
 32 ticket vote for the office is greater than the number of persons to be
 33 elected to the office. If the total number of votes cast for the office is
 34 greater than the number of persons to be elected to the office, the
 35 straight party ticket votes for that office may not be counted. The
 36 straight party ticket votes for other offices on the voter's ballot shall be
 37 counted.

38 (f) If a voter votes a straight party ticket for more than one (1)
 39 political party, the whole ballot is void with regard to all candidates
 40 nominated by a political party or designated as independent candidates
 41 on the ballot. However, the voter's vote for a **library board** or school
 42 board candidate or on a public question shall be counted if otherwise

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valid under this chapter.

(g) If a voter does not vote a straight party ticket and the number of votes cast by that voter for the candidates for an office are less than or equal to the number of openings for that office, the individual candidates votes shall be counted.

(h) If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, none of the votes concerning that office may be counted.

SECTION 29. IC 3-12-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) This subsection applies to:

(1) a local, **library board**, or school board office with an election district located entirely within one (1) county, except for an office for which a declaration of candidacy is filed with the election division under IC 3-8-2; and

(2) a political party office, such as precinct committeeman or state convention delegate, elected at a primary election.

After the county election board has tabulated the vote, the board shall declare the candidate receiving the highest number of votes for each office to be elected.

(b) The county election board shall tabulate the votes cast for and against each local public question placed on the ballot by the county election board under IC 3-10-9-2 and, if the local public question is placed on the ballot only in that county, declare the public question approved or rejected.

(c) The county election board shall tabulate the votes cast for and against each public question voted on by the electorate of the whole state.

(d) The board shall certify the election results in a statement prepared by the circuit court clerk.

SECTION 30. IC 3-12-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Whenever a candidate is elected:

(1) to a local, **library board**, or school board office other than:

(A) one for which a town clerk-treasurer issues a certificate of election under IC 3-10-7-34; or

(B) one commissioned by the governor under IC 4-3-1-5; or

(2) a precinct committeeman or state convention delegate;

the circuit court clerk shall, when permitted under section 16 of this chapter, prepare and deliver to the candidate on demand a certificate of the candidate's election.

(b) This subsection applies to a local, **library board**, or school

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board office described in subsection (a) with an election district located in more than one (1) county and a local public question placed on the ballot in more than one (1) county. The circuit court clerk of the county that contains the greatest percentage of the population of the election district shall, upon demand of the candidate or a person entitled to request a recount of the votes cast on a public question under IC 3-12-12:

(1) obtain the certified statement of the votes cast for that office or on that question that was prepared under IC 3-12-4-9 from the circuit court clerk in each other county in which the election district is located;

(2) tabulate the total votes cast for that office or on that question as shown on the certified statement of each county in the election district; and

(3) issue a certificate of election to the candidate when permitted under section 16 of this chapter or a certificate declaring the local public question approved or rejected.

SECTION 31. IC 3-12-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Any candidate for nomination or election to a local, **library board**, or school board office is entitled to have the votes cast for that office recounted under this chapter.

(b) If a candidate who is entitled to have the votes recounted under this chapter does not file a petition within the period established by section 2 of this chapter, the county chairman of a political party in the precinct in which the recount is desired may file a petition to have the votes recounted. A county chairman is entitled to have the votes recounted only in a partisan race.

(c) The right of recount may be exercised for one (1) or more of the precincts in which votes were cast for the office.

SECTION 32. IC 3-12-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This section does not apply to a challenge filed before an election to the eligibility of a candidate nominated by petition for election to an office. The challenge described by this subsection must be conducted in accordance with IC 3-8-1-2.

(b) Any candidate for nomination or election to a local, **library board**, or school board office may contest the nomination or election of a candidate who is declared nominated or elected to the office.

(c) If a candidate who is entitled to contest the nomination or election of a candidate under this chapter does not file a petition within the period established by section 5 of this chapter, the county chairman

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of a political party of which the candidate entitled to file a petition under this chapter was a member may file a petition to contest the nomination or election of a candidate. A county chairman is entitled to contest an election under this chapter only in a partisan race.

SECTION 33. IC 3-12-9-3, AS AMENDED BY P.L.230-2005, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. Whenever a circuit court clerk receives certification that a tie vote at an election for a local, ~~office library~~ **board**, or a school board office occurred, the clerk shall immediately send a written notice of the tie vote to:

- (1) the fiscal body of the affected political subdivision; or
- (2) if the tie vote occurred in an election for a circuit office in a circuit that includes more than one county, to the fiscal body of each county of the circuit.

SECTION 34. IC 3-12-9-4, AS AMENDED BY P.L.164-2006, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The fiscal body of a political subdivision that receives notice under section 3 of this chapter shall resolve the tie vote by electing a person to fill the office not later than December 31 following the election (or not later than June 30 following the election of a school board member in May) at which the tie vote occurred. The fiscal body shall select one (1) of the candidates who was involved in the tie vote to fill the office.

(b) If a tie vote has occurred in an election for a circuit office in a circuit that contains more than one (1) county, the fiscal bodies of the counties shall meet in joint session at the county seat of the county that contains the greatest percentage of population of the circuit to select one (1) of the candidates who was involved in the tie vote in order to fill the office in accordance with this section.

(c) If a tie vote has occurred for the election of more than one (1) at-large seat on a legislative or fiscal body, the fiscal body shall select the number of individuals necessary to fill each of the at-large seats for which the tie vote occurred. However, a member of a fiscal body who runs for reelection and is involved in a tie vote may not cast a vote under this section.

(d) The executive of the political subdivision (other than a town or a school corporation) may cast the deciding vote to break a tie vote in a fiscal body acting under this section.

(e) The clerk-treasurer of the town may cast the deciding vote to break a tie vote in a town fiscal body acting under this section.

(f) A tie vote in the fiscal body of a school corporation under this section shall be broken under IC 20-23.

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(g) A tie vote in a library board under this section shall be broken by selecting one (1) of the candidates by a random process determined by the library board.

SECTION 35. IC 3-12-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. Whenever a tie vote at an election for:

(1) a state office;

(2) a local office; or

(3) a library board office; or

~~(4)~~ **(4)** a school board office;

occurs, the incumbent public official remains in office in accordance with Article 15, Section 3 of the Constitution of the State of Indiana until a successor is elected under this chapter and qualified.

SECTION 36. IC 3-13-7-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) This section does not apply to a **library board or** school board office.

(b) This section applies to a vacancy in an elected office in a political subdivision:

(1) in which each candidate is required by statute to be placed on the ballot as a nonpartisan candidate for the office; and

(2) for which this article does not otherwise provide a method for filling.

(c) The vacancy shall be filled as follows:

(1) The remaining members of the body shall fill the vacancy by a majority of the votes of the remaining members of the body.

(2) If there are no remaining members of the body, the county executive of the county containing the greatest percentage of the population of the political subdivision shall fill the vacancy in the manner provided by section 2 of this chapter.

SECTION 37. IC 36-12-1-5, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. "Public library" means a municipal corporation that:

(1) provides library services; and

(2) is organized under **any of the following:**

(A) IC 36-12-2.

(B) IC 36-12-2.5.

~~(B)~~ **(C)** IC 36-12-4.

~~(C)~~ **(D)** IC 36-12-5.

~~(D)~~ **(E)** IC 36-12-6. or

~~(E)~~ **(F)** IC 36-12-7.

SECTION 38. IC 36-12-2-1, AS ADDED BY P.L.1-2005,

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SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies only to Class 1 public libraries **that are not governed by IC 36-12-2.5.**

SECTION 39. IC 36-12-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 2.5. Elected Library Board

Sec. 1. This chapter applies only to a Class 1 library if:

- (1) the library board of the library adopts a resolution to be governed under this chapter; or
- (2) a public question held under this chapter is approved by the voters who reside in the library district.

Sec. 2. Except as provided in IC 3, a duty imposed on a circuit court clerk or a board of registration under this chapter is a duty imposed on the circuit court clerk or board of registration of each county in which the library district has territory.

Sec. 3. (a) A resolution adopted by a library board under this chapter must provide the following:

- (1) That the members of the library board shall be elected on a nonpartisan basis.
- (2) The number of members of the elected library board. Subject to the following, the resolution must state the number of members elected by district and the number of members elected at large by all the voters of the library district:
 - (A) The number of members elected from districts may not be greater than seven (7).
 - (B) The number of members elected at large may not be greater than four (4).
 - (C) The number of members elected at large may not be greater than the number of members elected from districts.
- (3) That the members shall be elected at a general election in an even-numbered year.
- (4) A description, including a map, of the library board member districts. Districts drawn under this subdivision must satisfy section 16 of this chapter.
- (5) The date of the first election of members under the resolution.
- (6) That the members elected under subdivision (5) take office on January 1 following their election.

(b) The resolution may contain the following provisions:

- (1) A provision to stagger the elections of the members of the

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library board. If the resolution provides for staggering the election of members, the resolution must provide for the following:

(A) That all library board member elections occur during an even-numbered year.

(B) A:

(i) statement of which members first elected to the board serve a two (2) year term and which members serve a four (4) year term; or

(ii) rule to determine after the election of members which members serve a two (2) year term and which members serve a four (4) year term.

(C) That the term of the members first elected begins on January 1 after the election.

(D) That after the first election of the members of the library board, members serve a four (4) year term, beginning January 1 after their election.

(2) Other provisions the board considers useful for transition to an elected library board that are not inconsistent with this article.

Sec. 4. (a) The election of the members of a library board may be initiated by a petition filed with the following:

(1) The current library board.

(2) The Indiana library and historical board.

(3) The circuit court clerk of each county in which the library district has territory.

(b) The petition must be signed by at least twenty percent (20%) of the registered voters who reside in the library district.

(c) The petition must include the following information:

(1) A request that the library board adopt a resolution under section 3 of this chapter to provide for the election of the members of the library board.

(2) A statement that if the library board does not adopt a resolution under section 3 of this chapter, that the petitioners request a public question be put to the voters who reside in the library district whether an elected library board as provided in the plan required by subdivision (4) should govern the library district.

(3) The date of the election at which the public question should be put to the voters. The public question shall be put to the voters at the general, primary, or special election requested in the petition. If the public question is held at a

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special election, the library district shall pay the cost of the election.

(4) A plan for election of the member of the library board that contains substantially the same information required by a resolution adopted under section 3 of this chapter.

(d) Not later than ten (10) days after a petition is filed under subsection (c), the library board shall give notice of the filing of the petition under this section in two (2) newspapers of general circulation:

(1) one (1) of which is published in the county where the administrative offices of the library district is located; and

(2) another newspaper that circulates in any of the library district's territory.

(e) The following apply to a petition filed under this section:

(1) The petition must show the following:

(A) The date on which each individual signed the petition.

(B) The residence of each individual on the date the individual signed the petition.

(2) The petition must include an affidavit of the individual circulating the petition stating that each signature on the petition:

(A) was affixed in the individual's presence; and

(B) is the true signature of the individual who signed the petition.

(3) The circuit court clerk or the board of registration shall do the following:

(A) Strike all names appearing more than one (1) time on the petition.

(B) Certify the number of signatures on the petition that:

(i) are not duplicates; and

(ii) represent individuals who are registered voters who reside in the library district.

(f) The circuit court clerk shall do the following:

(1) Complete the certification required by subsection (e) not later than fifteen (15) days after the petition is filed.

(2) Certify the results to the following:

(A) The current library board.

(B) The Indiana library and historical board.

Sec. 5. (a) This section applies only if both of the following apply:

(1) The petition filed under section 4 of this chapter materially complies with section 4 of this chapter.

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(2) The library board fails to adopt a resolution as requested in a petition filed under section 4 of this chapter not later than forty-five (45) days after the circuit court clerk certifies the results under section 4 of this chapter.

(b) As requested in the petition filed under section 4 of this chapter, the following public question shall be placed on the ballot in the library district under IC 3-10-9 at the next general, primary, or special election:

"Shall the board of the (insert the name of the library) Public Library be elected as provided in the plan filed with the library board?"

(c) The circuit court clerk shall certify the results determined under IC 3-12-4-9 to the following:

(1) The current library board.

(2) The Indiana library and historical board.

(d) If a public question is placed on the ballot under this section and the voters of the library district do not vote in favor of the public question, a second public question under this section may not be put to the voters for at least four (4) years.

Sec. 6. If:

(1) the library board adopts a resolution under section 3 of this chapter; or

(2) the voters who reside in the library district approve a public question under section 5 of this chapter;

the members of the library board shall be elected as provided in the resolution adopted under section 3 of this chapter or the plan submitted with the petition under section 4 of this chapter.

Sec. 7. On January 1 after the first election of members, the following apply:

(1) The appointed library board terminates.

(2) Notwithstanding any other law, the terms of the members of the appointed library board expire.

(3) All powers, duties, obligations, and functions adhering to the appointed library board are transferred to the library board elected under this chapter.

(4) The property, obligations, and records of the appointed library board are transferred to the library board elected under this chapter.

Sec. 8. (a) A candidate for membership on a library board must have resided in the library district for at least one (1) year before the date of the election.

(b) A candidate who wants to represent a library board member

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1 district must have resided in the member district for at least one
2 (1) year before the election.

3 Sec. 9. (a) An individual who wants to be a candidate for
4 election to the library board must file a petition of nomination with
5 the county election board:

6 (1) not earlier than one hundred four (104) days; and

7 (2) not later than noon seventy-four (74) days;
8 before the election at which library board members are to be
9 elected.

10 (b) A candidate's petition of nomination must satisfy the
11 requirements of IC 3-8-6-5.

12 (c) A candidate's petition of nomination must include the
13 signatures of at least ten (10) registered voters residing in the
14 library district.

15 Sec. 10. (a) The members of the library board shall be elected at
16 a general election.

17 (b) All candidates shall be listed for each office in the form
18 prescribed by IC 3-11-2, but without party designation. Voting and
19 tabulation of votes shall be conducted in the same manner as voting
20 and tabulation in general elections are conducted. The precinct
21 election boards serving in each county shall conduct the election
22 for members of the governing body. If a library district is located
23 in more than one (1) county, each county election board shall print
24 the ballots required for voters in that county to vote for candidates
25 for members of the library board.

26 (c) Only eligible voters residing in the library district may vote
27 for a candidate to be an at-large member of the library board. The
28 candidates who receive the most votes are elected.

29 (d) Only eligible voters residing in the member district may vote
30 for a candidate to represent that member district. The candidate
31 who receives the most votes is elected.

32 (e) To the extent not inconsistent with this chapter, IC 3
33 otherwise applies to the election of library board members.

34 Sec. 11. Members elected after the first election for members
35 held under this chapter shall serve a term of four (4) years,
36 beginning January 1 after their election.

37 Sec. 12. Before assuming office an individual elected to a library
38 board under this chapter shall take an oath of office, before an
39 official authorized by law to administer the oath, to the effect that
40 the individual will faithfully discharge a member's duties to the
41 best of the individual's ability.

42 Sec. 13. (a) The following apply to a library district governed

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under this chapter:

- (1) IC 36-12-2-2.
- (2) IC 36-12-2-3.
- (3) IC 36-12-2-4.
- (4) IC 36-12-2-21.
- (5) IC 36-12-2-22.
- (6) IC 36-12-2-24.
- (7) IC 36-12-2-25.

(b) A library district governed under this chapter has all other powers and duties of a Class 1 library that are not inconsistent with this chapter.

Sec. 14. (a) At the library board's first meeting each year, the board shall do the following:

- (1) Elect from the board members a president, a vice president, a secretary, and other officers that the board determines are necessary.
- (2) Adopt bylaws for the board's procedure and management and for the management of the public library.

(b) The library board shall elect its officers annually.

(c) A majority of the library board members constitutes a quorum for the transaction of business. The library board shall meet:

- (1) at least monthly; and
- (2) at any other time a meeting is necessary.

(d) Meetings shall be called by the president or any two (2) board members. All meetings of the board, except necessary executive sessions, are open to the public.

Sec. 15. (a) A vacancy occurs whenever a member is absent from six (6) consecutive regular board meetings for any cause other than illness.

(b) The library board shall appoint an individual who is qualified under this article to fill a vacancy for the remainder of the unexpired term.

Sec. 16. (a) The library board shall draw new member districts:

- (1) during the second year after a year in which a federal decennial census is conducted; and
- (2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(b) Before the library board adopts a resolution dividing the library district into member districts, the secretary of the library board must send a written notice to the circuit court clerk. The

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notice must:

(1) state that the library board is considering the adoption of a resolution described by this subsection; and

(2) be mailed not later than ten (10) days before the library board adopts the resolution.

(c) The member districts must satisfy the following:

(1) The districts must be composed of contiguous territory, except for territory that is not contiguous to any other part of the library district.

(2) The districts must be reasonably compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes).

(3) The districts may not cross precinct boundary lines, except as provided in subsection (d) or (e).

(4) The districts must contain, as nearly as is possible, equal population.

(d) The boundary of a member district may cross a precinct boundary line if:

(1) more than one (1) member of the library board elected from the districts resides in one (1) precinct established under IC 3-11-1.5 after the most recent election for the library board; and

(2) following the establishment of a member district whose boundary crosses a precinct boundary line, not more than one (1) member of the library board elected from districts resides within the same member district.

(e) The boundary of a library board may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(f) A member district with a boundary described by subsection (d) or (e) may not cross a census block boundary line:

(1) except when following a precinct boundary line; or

(2) unless the library board certifies in the resolution establishing the member districts that the census block has no population, and is not likely to ever have population.

(g) If any territory in the library district is not included in one (1) of the member districts, that territory is included in the member district that:

(1) is contiguous to that territory; and

(2) contains the least population of all member districts contiguous to that territory.

(h) If any territory in the library district is included in more

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- 1 **than one (1) of the member districts, that territory is included in**
2 **the member district that:**
3 **(1) is one (1) of the member districts in which the territory is**
4 **described in the resolution establishing the districts;**
5 **(2) is contiguous to that territory; and**
6 **(3) contains the least population of all member districts**
7 **contiguous to that territory.**

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